

Message Text

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ORIGIN EB-08

INFO OCT-01 ARA-10 ISO-00 TRSE-00 CTME-00 SS-15
AGRE-00 CEA-01 CIAE-00 COME-00 DODE-00 FRB-03
H-01 INR-10 INT-05 L-03 LAB-04 NSAE-00 PA-01
AID-05 STR-07 ITC-01 SP-02 SOE-02 OMB-01 DOE-15
NSCE-00 SSO-00 ICAE-00 INRE-00 AF-10 EA-10 EUR-12
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CUSTOMS:ASCHEFFLIN(SUBS)
E:EJOHNSTON
EB/OT/GCP:MBAAS
-----012458 032336Z /70
O 032306Z MAY 78
FM SECSTATE WASHDC
TO AMEMBASSY MEXICO IMMEDIATE

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PLEASE PASS UNDER SECRETARY COOPER'S PARTY

E.O. 11652:N/A

TAGS: ETRD, GSP

SUBJECT:MEXICAN LOSS OF GSP ON RAILCARS

1. SUMMARY: THIS CABLE SHOULD BE USED TO SUPPLEMENT
ISSUE PAPER IN YOUR BRIEFING BOOK FOR MEXICAN CONSULTATIONS.
DEPARTMENT HAS LEARNED THAT CUSTOMS SERVICE HAS MADE
PRELIMINARY DECISION TO TURN DOWN MEXICAN REQUEST FILED
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THROUGH AMERICAN ATTORNEY THAT RAILWAY CARS (TSUS 690.15)
BE ALLOWED TO ENTER U.S. DUTY-FREE IN DISASSEMBLED FORM
UNDER TSUS 690.35. COMPANY CAN APPEAL THIS DECISION
WITHIN CUSTOMS AND/OR TO CUSTOMS COURT IF DESIRED. END
SUMMARY.

2. MEXICAN COMPANY, CONSTRUCTORA NACIONAL DE CARRAS DE

FEIROCARRIL, S.A., SIGNED 31.7 MILLION DOLLAR CONTRACT WITH MISSOURI PACIFIC AND NORTH AMERICAN CAR CORPORATION FOR SHIPMENT OF RAILCARS DURING 1978. WHEN MEXICAN COMPANY LEARNED THAT UNDER THE COMPETITIVE NEED PROVISIONS OF 1974 TRADE ACT MEXICAN RAILCARS CLASSIFIED UNDER TSUS 690.15 WOULD LOSE DUTY-FREE GSP STATUS DURING PERIOD MARCH 1, 1978 TO MARCH 1, 1979 AND THAT RAILCARS WOULD HAVE TO PAY 18 PERCENT MFN DUTY, COMPANY APPEALED TO MEXICAN GOVERNMENT FOR ASSISTANCE. MEXICAN GOVERNMENT HAS

HELD DISCUSSIONS WITH USG AT VARIOUS LEVELS ON THIS PROBLEM. CONCURRENTLY, US ATTORNEY FILED WITH CUSTOMS TO OBTAIN ADVANCE RULING ON WHETHER DISASSEMBLED CARS (I.E. CARS WITHOUT WHEELS) WOULD BE PROPERLY CLASSIFIED UNDER TSUS 690.35 AND THUS ELIGIBLE FOR GSP DUTY-FREE ENTRY INTO U.S.

3. CHIEF, MANUFACTURERS CLASSIFICATION BRANCH, CUSTOMS CITING THREE PRECEDENTS HAS HELD THAT MEXICAN RAILCARS EXPORTED WITHOUT WHEELS WOULD BE UNFINISHED CARS, NOT PARTS OF CARS, UNDER SUBNOTE 10 H OF TARIFF SCHEDULE AND THUS ARE NOT CLASSIFIABLE UNDER 690.35. CARS THUS REMAIN CLASSIFIABLE UNDER 690.15 AND DUTIABLE AT 18 PERCENT MFN RATE.

4. UNDER CUSTOMS APPEAL PROCEDURES, MEXICAN COMPANY LIMITED OFFICIAL USE

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CAN APPEAL DECISION TO HIGHER AUTHORITY. APPEAL ROUTE RUNS FROM DIRECTOR, CLASSIFICATION AND VALUATION DIVISION TO ASSISTANT COMMISSIONER TO COMMISSIONER OF CUSTOMS. ALTERNATIVELY, COMPANY CAN FILE CASE IN CUSTOMS COURT EITHER PRIOR TO OR AFTER EXHAUSTING INTERNAL CUSTOMS APPEAL PROCEDURES. CHRISTOPHER

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Message Attributes

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